

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: 1/6/2023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUIS MOLINA, :
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Plaintiff, :
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-v- :
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CYNTHIA BRANN, et al., :
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Defendants. :
:
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1:20-cv-9483-GHW

ORDER

GREGORY H. WOODS, United States District Judge:

On December 16, 2022, Magistrate Judge Stewart D. Aaron issued a Report and Recommendation (the “R&R”) recommending that the Court grant Defendants’ motion for summary judgment. Dkt. No. 73 at 16.

A district court reviewing a magistrate judge’s report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of receiving a copy of the report. *Id.*; *see also* FED. R. CIV. P. 72(b)(2). The Court reviews for clear error those parts of the report and recommendation to which no party has timely objected. 28 U.S.C. § 636(b)(1)(A); *Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008).

No objection to the R&R was submitted within the fourteen-day window. The Court has reviewed the R&R for clear error. *See Braunstein v. Barber*, No. 06-cv-5978, 2009 WL 1542707, at *1 (S.D.N.Y. June 2, 2009) (explaining that a “district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record.”). Because the R&R properly concluded that Plaintiff did not exhaust his

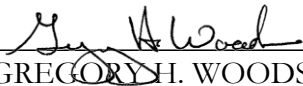
administrative remedies, as required by the Prison Litigation Reform Act, the Court accepts and adopts Judge Aaron's recommendation to grant summary judgment in Defendants' favor. *See* R&R at 11-14. The R&R also concluded that Plaintiff's conditions of confinement claim and claim under the Equal Protection Clause of the Fourteenth Amendment would fail on the merits. *See* R&R at 9-11, 14. The Court need not reach the R&R's conclusions as to the merits of Plaintiff's conditions of confinement claim or Plaintiff's claim under the Equal Protection Clause, as Plaintiff's failure to exhaust his administrative remedies is dispositive with respect to these claims. *See China Shipping Container Lines Co. v. Big Port Serv. DMCC*, No. 15-cv-2006, 2020 WL 6065559, at *3 n.2 (S.D.N.Y. Aug. 19, 2020) (declining to reach secondary question regarding whether plaintiff made a showing of "personal bad faith" after finding no clear error in the magistrate judge's recommendation that plaintiff failed to make an adequate showing of bad faith).

For the reasons articulated herein, the R&R is adopted in part and Defendants' motion for summary judgment is GRANTED.

The Clerk of Court is directed to mail a copy of this order by first-class mail to Plaintiff, to terminate all pending motions, to enter judgment in favor of Defendants, and to close this case.

SO ORDERED.

Dated: January 6, 2023
New York, New York



GREGORY H. WOODS
United States District Judge